

## **Exhibit A**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: October       , 2007 Signature: \_\_\_\_\_  
(David A. Gass)

Docket No.: 30986/41551  
(PATENT)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Preben Lexow et al.

Application No.: 10/553,113

Filed: April 16, 2004 (as PCT/GB2004/001673) Art Unit: Not Yet Assigned  
For: Method for Characterizing Polynucleotides Examiner: Not Yet Assigned

### **PETITION UNDER 37 C.F.R. §1.47(a) and 35 U.S.C. §116**

#### **MS Petition**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, Preben Lexow, provide the following statement of facts in support of concurrently filed petition pursuant to 37 CFR §1.47(a) and 35 U.S.C. §116, second paragraph in order to have the attached executed oath/declaration accepted without the signature of joint inventor Erlend Ragnhildstveit, who refuses to sign the oath/declaration.

1. I am the CEO of LingVitae AS and the first-named inventor of the above-referenced application.

2. I have on numerous occasions contacted Erlend Ragnhildstveit, who is named as a joint inventor with me on the above-referenced application, to request that he cooperate with the company in filing and prosecuting the above-referenced application.

3. In response to my requests Erlend Ragnhildstveit has indicated that he will no longer maintain contact with the company and he has refused to execute any oath or declaration. Attached as Exhibit B is a certified translation of a letter sent by Erlend Ragnhildstveit to LingVitae AS on January 6, 2006 informing the company that he "cannot maintain contact with the company until it choose to behave in a professional manner by

Application No.: 10/553,113

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fulfilling its obligations towards me." The letter has been redacted to remove facts that are not relevant to the refusal to sign the application. However, an unredacted copy is available should it be needed.

4. I have written to Erlend Ragnhildstveit to request that he sign the declaration and I have provided to him a complete copy of the U.S. application (*i.e.*, including the specification claims and drawings), an assignment and a declaration and power of attorney document. A copy of the cover letter that I sent to him is attached as Exhibit C.

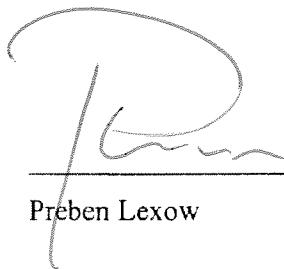
5. The materials referenced in paragraph 4 above were sent to Erlend Ragnhildstveit via certified delivery to his last known address, which is Jonsokveien 5, 1182 Oslo, Sweden as evidenced by the postal receipt attached as Exhibit D.

6. I have not received a response from Erlend Ragnhildstveit to my repeated request.

7. I have executed a joint declaration and power of attorney for the above referenced case on October 10, 2005 (attached as Exhibit E). The same document, which provides a place for Erlend Ragnhildstveit's signature has been presented to Erlend Ragnhildstveit but we have not received a signed copy of this or any other declaration.

8. Despite repeated and diligent efforts on my part, I have not been able to convince Erlend Ragnhildstveit to sign the declaration for the above-referenced case.

9. In view of the above facts, it is my belief that Erlend Ragnhildstveit will continue to refuse to sign the application and as such I am providing this statement of facts and petition to execute the application on my behalf and on behalf of the non-signing inventor.



Preben Lexow

25. FEBRUARY 2007

Date

## **Exhibit B**

Erlend Ragnhildstveit  
Jonsokveien 5  
1182 OSLO

3 January 2006

LingVitae AS  
PO Box 335  
0213 Skøyen, OSLO

Dear Sirs

**Non-payment of final settlement**

I would like to draw the company's attention to the fact that in spite of my claim and my letter demanding payment I have not yet received my lawful final settlement of [REDACTED] (my claim amounting to [REDACTED], minus the amount of [REDACTED] paid on 6 October 2005).

The final settlement was not given to me until 6 October 2005 in spite of the fact that my last working day was 30 August of the same year. In the letter of the same date (6 October) I was for the first time made aware that the company is of the opinion that I have taken 31 unauthorised days off (i.e. 38 days minus the seven days I reported as days off) during the period May to August 2005.

I find it extremely inappropriate that the company's view is that I have taken these "unauthorised" days off. It is a contradiction in terms that I could have taken all these unauthorised days off without the CEO sending me a letter, texting me on my mobile phone or contacting me in some other way. The times I was away from work were due to illness (reported), one period when the computer was taken away from me in the middle of May (with approval from the CEO to work at home), and a period at the end of June when the CEO texted me on my mobile phone to ask me to stay away from work until he contacted me again. I have given an explanation of all these points before.

In spite of the fact that I have asked the company (in my letter of 10 October 2005) for a written validation, i.e. documentation of these "unauthorised days off", I have not yet received this. I assume that the company understands that validation is to be regarded as e-mail and letter or other tangible evidence to show that I was asked to come back to work (which would have been natural if I had taken unauthorised days off) rather than a long list of dates.

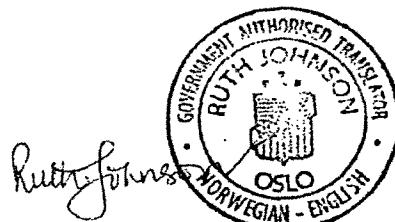
I cannot maintain contact with the company until it chooses to behave in a professional manner by fulfilling its obligations towards me. I hope this can happen in the very near future.

Yours faithfully

*Erlend Ragnhildstveit (sign.)*  
Erlend Ragnhildstveit

P.S. I will be out travelling for two weeks from next week.

True translation from Norwegian is certified  
Government Authorised Translator  
19 January 2006



*Ruth Johnson*

## **Exhibit C**



This mail is intended only for the addressee. As this mail may contain confidential or privileged information, if you are not the named addressee, please telephone us immediately. The contents should not be disclosed to any other person or copies taken.

December 13, 2006

Erlend Ragnhildtsveit  
Jonsokveien 5  
1182 Oslo

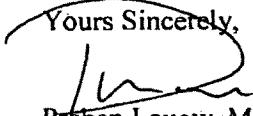
Dear Erlend

From our earlier correspondence, I understand that you are still unwilling to sign the various Powers of Attorney and Assignment forms for the US and Canadian patent applications relating to PCT/GB04/01673 and PCT/GB04/01665. I therefore inform you that we intend to proceed with these applications in the absence of your cooperation.

As you are no doubt aware, the rights to these applications are held by the company by virtue of your contract of employment.

A copy of the Specification, Assignment and Declaration & Power of Attorney for the US Patent Applications that relate to PCT/GB04/001673 and PCT/GB04/001665 is enclosed. A copy of the Specification and Assignment for the Canadian Patent Application which relates to PCT/GB04/001673 is also enclosed. I invite you once more to sign each of the enclosed forms and return the signed copies to me.

Yours Sincerely,

  
Preben Lexow, M.D.  
Chief Executive Officer  
LingVitae AS

## **Exhibit D**



Posten Norge AS

Skøyen Bedriftssenter  
POSTBOKS 39 SKØYEN

Org.nr 984 661165 HVA

Ant. Varetekst. Beløp HVA

|   |                              |          |     |
|---|------------------------------|----------|-----|
| 1 | A-Prioritert                 | kr 55,00 | 25% |
|   | (Vekt Manuell):0,561 kg)     |          |     |
|   | (Destinasjon:Norge)          |          |     |
|   | (Fremsendningstid:2-3 dager) |          |     |
|   | (Hr.:RR003186499H0)          |          |     |
| 1 | Rekondandert                 | kr 49,00 | 25% |
|   | ( ERLEND RAGNHILDSTVEIT:)    |          |     |
|   | ( JONSOKV.5:)                |          |     |
|   | ( 11B2:)                     |          |     |
|   | ( OSLO:)                     |          |     |

Total kr 104,00

Kontantbetalning kr 104,00

|         |          |          |
|---------|----------|----------|
| Hva sat | Grunnlag | Hva suo  |
| 0%      |          |          |
| 8%      |          |          |
| 13%     |          |          |
| 25%     | kr 83,20 | kr 20,80 |

Bongnr. 47-11824-1-118208-  
Dato Tid Kasse Kasserer  
13.12.2006 13:53:33 KASSE1 JOAR

Kundenavn :  
Kundenummer :  
Kunde gateadresse 1 :  
Kunde gateadresse 2 :  
Postnummer :  
Poststed :

*J. J. J. A.*

Denne delen tilsendes på  
Posten Norge  
Bokføring

Signatur



47-11824-1-118208-2

## **Exhibit E**

USA

DECLARATION AND POWER OF ATTORNEY

As a below-named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of subject matter which is claimed and for which a patent is sought on an invention entitled  
**METHOD FOR CHARACTERISING POLYNUCLEOTIDES**

the specification of which  is attached hereto or

was filed on 16 APR 2004 as United States Application Number or PCT International Application Number PCT/GB04/001673 and was amended on (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56. I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for a patent or inventor's certificate, or PCT international application having a filing date before that of the application on which priority is claimed:

| Prior Foreign Application Number(s) | Country | Foreign Filing Date | Priority Not Claimed     | Certified Copy Attached? | YES                      | NO |
|-------------------------------------|---------|---------------------|--------------------------|--------------------------|--------------------------|----|
| 0308851.5                           | GB      | 16 APR 2003         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |    |
|                                     |         |                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |    |
|                                     |         |                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |    |

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Direct all correspondence to:  
Marshall, Gerstein & Borun  
6300 Sears Tower  
233 South Wacker Drive  
Chicago  
Illinois 60606-6357  
United States of America

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C 1001 and that such willful false statements may jeopardise the validity of the application or any patent issued thereon.

Full name of sole or Preben LEXOW  
First Inventor



Inventor's signature

Residence address Oslo, Norway

Post Office address c/o LINGVITAE AS, Trimveien 6, A562, 0372 Oslo, Norway

Country of Citizenship Norway

Date of signature OCT. 10, 2005

Full name of  
Second Inventor Erland RAGNHILDSTVEIT

Inventor's signature

Residence address Oslo, Norway

Post Office address c/o LINGVITAE AS, Trimveien 6, A562, 0372 Oslo, Norway

Country of Citizenship Norway

Date of signature \_\_\_\_\_

## **Exhibit F**



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

15 FEB 2007

MARSHALL, GERSTEIN & BORUN LLP  
233 S. Wacker Drive, Suite 6300  
Sears Tower  
Chicago, IL 60606

In re Application of  
LEXOW *et al*  
U.S. Application No.: 10/553,505  
PCT No.: PCT/GB2004/001665  
Int. Filing Date: 16 April 2004  
Priority Date: 16 April 2003  
Attorney Docket No.: 30986/41550  
For: METHOD FOR IDENTIFYING  
CHARACTERISTICS OF MOLECULES

## DECISION

This decision is in response to applicants' "Petition Under 37 C.F.R. § 1.47(a) and 35 U.S.C. §116" filed 11 January 2007.

## BACKGROUND

On 07 August 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 11 January 2007, applicants filed a response which was accompanied by, *inter alia*, the subject petition; the surcharge fee; a declaration signed by one of the two named inventors; a statement by Preben Lexow; documentary evidence; and authorization to charge any additional fees to Deposit Account No. 13-2855.

## DISCUSSION

Applicants claim that joint inventor Erland Ragnhildsveit refuses to cooperate in the above-identified application and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 07 August 2006.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors.

Concerning item (1), the petition fee of \$200.00 has been charged to Deposit Account No. 13-2885 as authorized.

Regarding item (2), the 37 CFR 1.47(a) applicants submitted a declaration by co-inventor Preben Lexow who states that Mr. Ragnhildtsveit is a disgruntled former employee who has refused to execute an oath or declaration. Petitioners included a letter from the nonsigning inventor dated 03 January 2006 to his former employer. In the letter, Mr. Ragnhildtsveit requests additional money purportedly owed from his former employer.

Petitioners state that a copy of the subject application, a declaration and an assignment were mailed to the nonsigning inventor on 13 December 2006. A copy of the cover letter was included. However, the letter states only that a copy of the specification, declaration and assignment was included. Nonetheless, the statement by Mr. Lexow is taken to show that a complete copy of the subject application (specification, claims and drawings) were forwarded to the nonsigning inventor. If this is not the case, petitioners must promptly notify this office. Mr. Lexow also claims that he has not received a response from Mr. Ragnhildtsveit to his request.

This conduct is sufficient to show a refusal to cooperate pursuant to section 409.03(d) of the MPEP and meets item (2).

With regards to item (3), the last known address of Erland Ragnhildtsveit is listed as:

Jonsokveien 5  
1182 Oslo,  
Norway

Concerning item (4), the 37 CFR 1.47(a) applicants submitted a declaration signed by one of the two co-inventors on behalf of themselves and the nonsigning joint inventor. The residence, address and citizenship of all three inventors are recorded on the declaration. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

All requirements of 37 CFR 1.47(a) are complete.

### CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is GRANTED.

Applicants have completed the requirements for acceptance under 35 U.S.C.

371(c). The application has an international filing date of 16 April 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 11 January 2006.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302